

LS 5-1137

OGC Has Reviewed

13 May 1955

STATINTL

MEMORANDUM FOR: [REDACTED]

SUBJECT : Career Agents

1. Your memorandum of 4 May 1955 to the Director of Personnel sets forth in strong terms certain reservations about career agents as a category. I do not share your doubts in full degree, possibly because I was personally closer to the inception of this category and may be more familiar with its history and philosophy.

2. I do not see any contradiction in stating that a person may be an employee by virtue of his contract, although not a staff employee. Consultants and experts employed by contract are a common type of employee and yet are not considered staff. They obtain some benefits and obligations by operation of law and some by virtue of the contract. Therefore, I see no incongruity in granting all benefits pertaining to staff employment except tenure. The tenure point was specifically made plain to take care of those situations where a person might be deemed suitable for career-agent work but not for staff assignment within the Agency. In any case, the nature of the contract is not the final control on the question of employment, although it is strongly compelling. A contract which grants all or most of the indicia of employment probably creates an employer-employee relation whether it says so or not.

3. Points raised by you on question of benefits are obviously a more difficult matter to rationalize. However, I am not sure it is any more difficult than the situation involving staff agents such as [REDACTED] and yet continue to pay at the rate of the higher civilian salary. The nub of the question is whether the category is necessary for operational purposes. If there is no operational need for this category, I would be happy to see it eliminated as it has administrative as well as legal difficulties. I understand this is currently the position of the staff of the Deputy Director (Plans), but I do not want to state our position so strongly that the category could not be resurrected in the event of need. If you do not agree with me, please let's argue it out further;

otherwise, would you consider what move we might take with the Office of Personnel to make our position quite clear.

/s/
LAWRENCE R. HOUSTON
General Counsel

OGC:LRH:jeb
cc: OGC chrono
subject Personnel-5